

No. 7750-4Lab-72/30432.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Atlas Love-O-Bettling Co. (P.), Jagadhri :—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 46 of 1970

between

SHRI ABNASH CHANDER AND THE MANAGEMENT OF M/S ATLAS LOVE-O-BETTLING
CO. (P.) LTD., JAGADHRI

Prerent—

Shri Abnash Chander, applicant in person.
Shri Subhash Chand, for the management.

AWARD

The following industrial dispute was referred to the Labour Court, Faridabad, —vide Government Gazette Notification No. ID/UMB/91-A/68/31948, dated 30th December, 1968 :—

Whether the dismissal of Shri Abnash Chander Purang was justified and in order? If not, to what relief is he entitled ?

Before the case could be disposed off, the Labour Court, Faridabad, ceased to function by reason of the judgement given by the Punjab and Haryana High Court in Civil Writ No. 1129, dated 2nd September, 1970, filed by M/s Gedore Tools (P) Ltd., Faridabad. The Government of Haryana constituted another Labour Court (i.e. the present Labour Court), —vide Government Gazette Notification No. 3864-ASO(E)-Lab-70, dated 8th May, 1970 and was pleased to refer all the disputes pending in the Labour Court, Faridabad, including the present dispute to this court for adjudication—vide Government Gazette Notification No. 6091-ASO(E)-Lab-70/22606, dated 31st July, 1970.

On receipt of the reference usual notices were issued to the parties, in response to which the workman filed his statement of claim and the management filed their written statement. The pleadings of the parties gave rise to the following issues :—

1. Whether no industrial dispute exists between the workman and the management on account of the closure of the industry concerned as alleged in the written statement ?
2. Whether the present reference is bad in law for the reasons given in the written statement ?
3. Whether the termination of services of Shri Abnash Chander was justified and in order ? If not, to what relief is he entitled ?

Neither party has produced any fresh evidence in this court. Parties had produced their evidence before the Labour Court, Faridabad and they have made a statement that the statements of the witnesses recorded in the Labour Court, Faridabad, may be read as evidence and that they did not wish to produce any fresh evidence nor did they wish to ask any new question from any of the witnesses. I have heard both the parties at length and have gone through the evidence. My findings are as under :—

Issue No. 1.—

The management have pleaded at page 2 of the written statement that the respondent factory was permanently closed on 31st December, 1969, while the present reference to this court was made on 31st July, 1970 and since the industry had ceased to exist before the dispute was referred to this court, therefore, the reference is illegal. There is no force in this objection because as already pointed out the original reference was made on 30th December, 1968, i.e. when the industry was still alive. The dispute was re-referred to this court simply because the Labour Court, Faridabad has ceased to function although the dispute still existed. Hence it cannot be said that the reference is altogether a new reference. In my opinion, therefore, the reference can not be said to be invalid on this ground. I find this issue in favour of the applicant.

Issue No. 2.—

There is also no force in the assertion made by the management that the present reference has been made under sub-section (2) of section 10 of the Industrial Disputes Act, 1947. This was only a clerical error and this error has been corrected,—vide Haryana Government Gazette Notification No. 6091-E-Lab-70/22387, dated 31st July, 1970. The reference is, therefore, under sub-section (1) of section 10 of the Industrial Disputes Act, 1947. I find this issue in favour of the workman.

Issue No. 3.—

The workman has been dismissed on the basis of a domestic inquiry held by the management. The record of the inquiry has been filed. The perusal of the record shows that the inquiry was originally fixed for 27th August 1968 at 10 A.M. The workman informed the management that he had received the notice of the inquiry only on 27th August, 1968 at 2.00 P.M. This fact is proved by the writing of the workman made on the acknowledgement which is signed when registered intimation regarding the date of inquiry was received by him. He further intimated that since the dispute had already been referred to the Labour Officer-cum-Conciliation Officer, therefore, there was no point in getting the inquiry made by the management. In view of the absence of the workman on 27th August, 1968, the Inquiry Officer postponed the inquiry to 29th August, 1968. There is however, no proof on the file of the Inquiry Officer to show that the workman had been informed of the date to which the inquiry has been postponed except the statement which Shri P. Dara made before the Inquiry Officer that telegraphic intimation had been sent to the workman to appear before the Inquiry Officer on 29th August, 1968. The workman in his statement made on 27th May, 1969, has stated that his wife was ill and, therefore, he had made an application for leave for 28th and 29th of August, 1968 and attached a Medical Certificate marked Exhibit W/1 in support of his leave application. He states that he received intimation regarding the telegram on 1st September, 1968, on his return. It appears that the Inquiry Officer made no effort to satisfy himself that the workman had actually received the telegram before 29th August, 1968. The application of the workman regarding his prayer for being allowed leave for 28th and 29th August, is on the file of the Inquiry Officer. The orders of this application are "Received application. Since you are under suspension you may proceed on leave on your own risk." These orders of dated 28th August, 1968. Since the management knew that the workman was on leave for 28th and 29th August, and had to go to Delhi to consult a Doctor as intimated by him in his application, there was no point in fixing the inquiry for 29th August without giving him prior intimation. Moreover, telegraphic intimation can not in the eye of law be considered as a legal intimation unless the confirmation of telegram is made in writing. Before proceeding *ex parte* the inquiry officer should have ensured that the workman had in fact received the telegram that the inquiry had been postponed to 29th August, 1968. We have seen that the workman learnt that the inquiry had been fixed for 27th August, 1968 at 10 A.M. only at 2. P.M. on the day and the telegraphic intimation regarding postponement of the inquiry was received by him only on 1st September, 1968. It can not therefore, be said that the *ex parte* inquiry held on 29th August, 1968 was justified. The dismissal of the workman on the basis of *ex parte* inquiry cannot, therefore, be upheld.

As regards the relief the workman has made a statement that he joined the services of the management on 20th June, 1967 and he was dismissed on 15th September, 1968. The respondent factory was closed on 31st December, 1969. The workman admits that he was not wholly un-employment during this period. He says that he got an employment at the rate of Rs 300 P.M. from 1st December, 1968 and another employment at the rate of Rs 400 P.M. from 18th August, 1969. The correctness of the statement made by the workman in this regard has not been challenged by the representative of the management. Thus the workman is entitled to full back wages from 16th September, 1968 to 30th November, 1968 and Rs 100 P.M. from 1st December, 1968 to 17th August, 1969.

As regards the relief for reinstatement, the respondent factory was admittedly closed on 31st December, 1969. Thus the workman is only entitled to retrenchment compensation. He had only one year's service to his credit and he was getting Rs 400 P.M. He is, therefore, entitled to 15 days salary on account of retrenchment compensation and Rs. 400 on account of notice pay. Thus the total amount to which the workman is entitled comes to Rs 2,454.84. The workman would be entitled to Rs. 100 as cost. I give my award accordingly.

Dated the 11th July, 1972.

P.N. THUKRAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1260, dated the 11th July, 1972

Forwarded (4 copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P.N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 7747-4Lab-72/30436.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Boor Singh Electric Co., near Tribune Office, Ambala Cantt :—

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 44 of 1970

between

SHRI RAJINDER SINGH AND THE MANAGEMENT OF M/S BOOR SINGH ELECTRIC CO.,
NEAR TRIBUNE OFFICE, AMBALA CANTT.

Present.—

Shri Rajinder Singh, applicant in person.

Shri D. S. Rokhi, for the management.

AWARD

The following industrial dispute was referred to the Labour Court, Faridabad,—*vide* Haryana Government Gazette notification No. ID/UMB/166-A/31602-7, dated 20th December, 1968 :—

“Whether the termination of services of Shri Rajinder Singh was justified and in order ? If not, to what relief is he entitled ?”

Before the case could be disposed off, the Labour Court, Faridabad ceased to function by reason of the judgement given by the Punjab and Haryana High Court in Civil Writ No. 1129, dated 2nd September, 1970 filed by M/s Gedore Tools (P) Ltd., Faridabad. The Governor of Haryana constituted another Labour Court (i.e. the Present Labour Court),—*vide* Government Gazette notification No. 3864-ASO(E)-Lab-70, dated 8th May, 1970 and was pleased to refer all the disputes pending in the Labour Court, Faridabad including the present dispute to this court for adjudication,—*vide* Government Gazette notification No. 6091-ASO(E)-Lab-70/22605, dated 31st July, 1970.

It is not necessary to decide the case on merits because a compromise has been arrived, at between the parties. The workman admits that he has received a sum of Rs 450 and he does not wish to go back in the service of the respondent. He however, claims that his earned wages for 24 days for the month of April and his wages for the month of August as also the wages due to him on account of overtime and bonus for three-and-a-half years is still due to him. The workman is at liberty to take appropriate proceedings for the recovery of his dues. He is not entitled to any further relief in this case on account of settlement. I give my award accordingly. No order as to costs.

Dated: 11th July, 1972.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 1257, dated Rohtak, the 11th July, 1972.

Forwarded (4 copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 7749-4Lab-72/30438.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Jamna Talkies, Jagadhri.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 231 of 1971

between

SHRI BALWANT SINGH AND THE MANAGEMENT OF M/S JAMNA TALKIES, JAGADHRI

Present.—

Shri Madhu Sudan Saran Kaushish, for the applicant.

Shri R. D. Gupta, for the management.

AWARD

The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, was pleased to refer the following dispute to this court for adjudication,—*vide*,—*Haryana Government Gazette* notification No. ID/Amb-197-A-71/34363-68, dated 23rd November, 1971 :—

“Whether the termination of services of Shri Balwant Singh was justified and in order ? If not, to what relief is he entitled ?”

It is not necessary to decide the case on merits, because according to the management a compromise has been arrived at between the parties, according to which the management have agreed to pay a sum of Rs 200 to the workman in full and final settlement of all his claims and the workman has given up his right of reinstatement or re-employment in the respondent concern. According to the settlement the workman has also agreed that he has received his legal dues from the management and no amount is due to him.

The workman himself has not appeared to admit or deny the settlement. His representative stated that he had no instructions with regard to the compromise. The case was adjourned to enable the representative of the workman to obtain instructions. On the adjourned date the representative of the workman stated that the workman has not met him and has given him no further instructions to proceed with the case. Accordingly, I give my award in terms of the settlement as set-up by the management. No order as to costs.

P. N. THUKRAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

Dated 11th July, 1970.

No. 1258, dated the 11th July, 1972

Forwarded (4 copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 7752-4Lab-72/30440.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s Usha Spinning & Weaving Mills, Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 107 of 1972

between

SHRI NASHIB CHAND, C/O MAZDOOR EKTA COMMITTEE, N.I.T., FARIDABAD AND THE MANAGEMENT OF M/S USHA SPINNING & WEAVING MILLS, LTD., FARIDABAD

Present.—

Shri Nashib Chand applicant in person.

Shri Krishan Kumar, for the management.

AWARD

The Governor of Haryana in exercise of powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, was pleased to refer the following dispute to this court for adjudication,—*vide* *Haryana Government Gazette* notification No. ID/FD/167-D-72/11223-27, dated 31st March, 1972 :—

“Whether the termination of services of Shri Nashib Chand was justified and in order ? If not, to what relief is he entitled ?”

It is not necessary to decide the case on merits because a compromise has been arrived at between the parties. The workman has been taken back on duty and the dispute with regard to back wages has also been settled. Now there is no dispute between the parties. I give my award as per the compromise between the parties.

P. N. THUKRAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

Dated 10th July, 1972.

No. 1255, dated Rohtak, the 11th July, 1972

Forwarded (4 copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.